

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

Historic Preservation Board

TO: Chairperson and Members
Historic Preservation Board

DATE: September 13, 2021

FROM: Thomas R. Mooney, AICP
Planning Director

SUBJECT: HPB19-0361, **Ocean Terrace between 73rd Street and 75th Street including portions of 73rd, 74th and 75th Streets, Ocean Terrace Park.**

An application has been filed requesting a Certificate of Appropriateness for the design of a new park and streetscape improvements, including variances from the requirements of the Oceanfront and Dune Preservation Overlay districts.

STAFF RECOMMENDATION

Approval of the Certificate of Appropriateness with conditions.
Approval of the variances with conditions.

BACKGROUND

On July 31, 2019, the City Commission approved a Development Agreement (Resolution No. 2019-30927) vacating portions of the Ocean Terrace, 74th Street and 75th Street rights-of-way (totaling approximately 45,920 sq. ft.) to the developer of the adjacent property and requiring the developer to grant a perpetual easement to the City for said vacated property. Additionally the developer agreed to and is required to develop, design, and construct, at the developer's sole cost and expense, certain public park and streetscape improvements in the vicinity of Ocean Terrace.

EXISTING SITE

Local Historic District:

Harding Townsite/South Altos del Mar

ZONING / SITE DATA

Legal Description:

Parcel 1 (vacated right-of-way)

PORT OF R/W OF 74 ST & ADJ TO LOT 14 BLK 1 OF PB 34-4 DESC AS BEG SE COR OF LOT 14 TH S 86 DEG 146FT S 02 DEG E 30FT N 86 DEG E 146FT N 02 DEG W 30FT TO POB CLOSED PER R-2019-30927 PORT OF R/W 74ST & 75ST & OCEAN TERR ADJ TO LOTS 1 THRU 8 BLK 1 OF PB 34-4 DESC AS BEG SE COR OF LOT 2 TH N 02 DEG W 100FT S 86 DEG W 150FT N 02 DEG W 40FT N 85 DEG E 210FT S 02 DEG E 140FT S 86 DEG W 60FT TO POB & BEG SE COR OF LOT 4 TH N 02 DEG W 100FT N 86 DEG E 60FT S 02 DEG E 100FT S 86 DEG W 60FT

TO POB & BEG SE COR OF LOT 5 TH N 02 DEG W 50FT N 86 DEG E 60FT S 02 DEG E 50FT S 86 DEG W 60FT TO POB & BEG SW COR OF LOT 7 TH N 86 DEG E 150FT N 02 DEG W 50FT N 86 DEG E 60FT S 02 DEG E 80FT S 86 DEG W 210FT N 02 DEG W 30FT TO POB & BEG NE COR LOT 8 S 86 DEG W 146FT N 02 DEG W 40FT N 86 DEG E 146FT S 02 DEG E 40FT TO POB.

Parcel 2 (GU property)

Park lying east of Ocean Terrace between 73 Street and 75 Street, of the Harding Townsite, According to the Plat thereof, as Recorded in Plat Book 34, Page 4, of the Public Records of Miami-Dade County, Florida and the portion lying east & adjacent west of the erosion control line, as Recorded in Plat Book 105, Page 62, of the Public Records of Miami-Dade County, Florida.

Zoning: CD-2, Commercial, medium intensity; MXE mixed use entertainment & GU, government use
Future Land Use Designation: CD-2, Commercial, medium intensity; MXE mixed use entertainment & ROS, recreation open space

THE PROJECT

The applicant has submitted plans entitled “Ocean Terrace Streetscape Park”, as prepared by Raymond Jungles, Inc., dated July 6, 2021.

COMPLIANCE WITH ZONING CODE

The application, as submitted, with the exception of the variances requested herein, appears to be consistent with the following requirements of the City Code:

This shall not be considered final zoning review or approval. These and all zoning matters shall require final review and verification by the Zoning Administrator prior to the issuance of a Building Permit.

CONSISTENCY WITH 2040 COMPREHENSIVE PLAN

A preliminary review of the project indicates that the **municipal park** use is **consistent** with the Future Land Use Map of the Comprehensive Plan.

PRACTICAL DIFFICULTY AND HARDSHIP CRITERIA

The applicant has submitted plans and documents with the application that satisfy Article 1, Section 2 of the Related Special Acts, allowing the granting of a variance if the Board finds that practical difficulties exist with respect to implementing the proposed project at the subject property.

The applicant has submitted plans and documents with the application that indicate the following, as they relate to the requirements of Section 118-353(d), Miami Beach City Code:

- That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the

same zoning district;

- That the special conditions and circumstances do not result from the action of the applicant;
- That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, buildings, or structures in the same zoning district;
- That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Ordinance and would work unnecessary and undue hardship on the applicant;
- That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure;
- That the granting of the variance will be in harmony with the general intent and purpose of this Ordinance and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare; and
- That the granting of this request is consistent with the comprehensive plan and does not reduce the levels of service as set forth in the plan.
- The granting of the variance will result in a structure and site that complies with the sea level rise and resiliency review criteria in chapter 133, article II, as applicable.

COMPLIANCE WITH SEA LEVEL RISE AND RESILIENCY REVIEW CRITERIA

Section 133-50(a) of the Land Development establishes review criteria for sea level rise and resiliency that must be considered as part of the review process for board orders. The following is an analysis of the request based upon these criteria:

- (1) A recycling or salvage plan for partial or total demolition shall be provided.
Not Applicable
- (2) Windows that are proposed to be replaced shall be hurricane proof impact windows.
Not Applicable
- (3) Where feasible and appropriate, passive cooling systems, such as operable windows, shall be provided.
Not Applicable
- (4) Resilient landscaping (salt tolerant, highly water-absorbent, native or Florida friendly plants) shall be provided, in accordance with Chapter 126 of the City Code.
Satisfied
- (5) The project applicant shall consider the adopted sea level rise projections in the Southeast Florida Regional Climate Action Plan, as may be revised from time-to-time by the Southeast Florida Regional Climate Change Compact. The applicant shall also specifically study the land elevation of the subject property and the elevation of surrounding properties.

Satisfied

- (6) The ground floor, driveways, and garage ramping for new construction shall be adaptable to the raising of public rights-of-ways and adjacent land and shall provide sufficient height and space to ensure that the entry ways and exits can be modified to accommodate a higher street height of up to three (3) additional feet in height.

Not Applicable

- (7) In all new projects, all critical mechanical and electrical systems shall be located above base flood elevation. Due to flooding concerns, all redevelopment projects shall, whenever practicable, and economically reasonable, move all critical mechanical and electrical systems to a location above base flood elevation.

Not Applicable

- (8) Existing buildings shall be, where reasonably feasible and economically appropriate, elevated up to base flood elevation, plus City of Miami Beach Freeboard.

Not Applicable

- (9) When habitable space is located below the base flood elevation plus City of Miami Beach Freeboard, wet or dry flood proofing systems will be provided in accordance with Chapter of 54 of the City Code.

Not Applicable

- (10) In all new projects, water retention systems shall be provided.

Satisfied

Additional information shall be provided at the time of building permit review.

- (11) Cool pavement materials or porous pavement materials shall be utilized.

Satisfied

Additional information shall be provided at the time of building permit review.

- (12) The project design shall minimize the potential for a project causing a heat island effect on site.

Satisfied

COMPLIANCE WITH CERTIFICATE OF APPROPRIATENESS CRITERIA

A decision on an application for a Certificate of Appropriateness shall be based upon the following:

- I. Evaluation of the compatibility of the physical alteration or improvement with surrounding properties and where applicable, compliance with the following criteria pursuant to Section 118-564(a)(1) of the Miami Beach Code (it is recommended that the listed criteria be found Satisfied, Not Satisfied or Not Applicable, as so noted):

- a. The Secretary of Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings as revised from time to time.

Not Applicable

- b. Other guidelines/policies/plans adopted or approved by Resolution or Ordinance by the City Commission.

Not Satisfied

The introduction of an outdoor bar within the café area is not consistent with Resolution 2019-30926 adopted by the City Commission on July 31, 2019.

- II. In determining whether a particular application is compatible with surrounding properties, the Board shall consider the following criteria pursuant to Section 118-564(a)(2) of the Miami Beach Code (it is recommended that the listed criteria be found Satisfied, Not Satisfied or Not Applicable, as so noted):
- a. Exterior architectural features.
Satisfied
 - b. General design, scale, massing and arrangement.
Satisfied
 - c. Texture and material and color.
Satisfied
 - d. The relationship of a, b, c, above, to other structures and features of the district.
Satisfied
 - e. The purpose for which the district was created.
Satisfied
 - f. The relationship of the size, design and siting of any new or reconstructed structure to the landscape of the district.
Satisfied
 - g. An historic resources report, containing all available data and historic documentation regarding the building, site or feature.
Not Applicable
 - h. The original architectural design or any subsequent modifications that have acquired significance.
Not Applicable
- III. The examination of architectural drawings for consistency with the criteria pursuant to Section 118-564(a)(3) of the Miami Beach Code and stated below, with regard to the aesthetics, appearances, safety, and function of any new or existing structure, public interior space and physical attributes of the project in relation to the site, adjacent structures and properties, and surrounding community. The criteria referenced above are as follows (it is recommended that the listed criteria be found Satisfied, Not Satisfied or Not Applicable, as so noted):
- a. The location of all existing and proposed buildings, drives, parking spaces, walkways, means of ingress and egress, drainage facilities, utility services, landscaping structures, signs, and lighting and screening devices.
Satisfied

- b. The dimensions of all buildings, structures, setbacks, parking spaces, floor area ratio, height, lot coverage and any other information that may be reasonably necessary to determine compliance with the requirements of the underlying zoning district, and any applicable overlays, for a particular application or project.
Not Satisfied
Variances have been requested as part of this application.
- c. The color, design, surface finishes and selection of landscape materials and architectural elements of the exterior of all buildings and structures and primary public interior areas for developments requiring a building permit in areas of the city identified in section 118-503.
Satisfied
- d. The proposed structure, and/or additions to an existing structure is appropriate to and compatible with the environment and adjacent structures, and enhances the appearance of the surrounding properties, or the purposes for which the district was created.
Satisfied
- e. The design and layout of the proposed site plan, as well as all new and existing buildings and public interior spaces shall be reviewed so as to provide an efficient arrangement of land uses. Particular attention shall be given to safety, crime prevention and fire protection, relationship to the surrounding neighborhood, impact on preserving historic character of the neighborhood and district, contiguous and adjacent buildings and lands, pedestrian sight lines and view corridors.
Satisfied
- f. Pedestrian and vehicular traffic movement within and adjacent to the site shall be reviewed to ensure that clearly defined, segregated pedestrian access to the site and all buildings is provided for and that any driveways and parking spaces are usable, safely and conveniently arranged and have a minimal impact on pedestrian circulation throughout the site. Access to the site from adjacent roads shall be designed so as to interfere as little as possible with vehicular traffic flow on these roads and pedestrian movement onto and within the site, as well as permit both pedestrians and vehicles a safe ingress and egress to the site.
Satisfied
- g. Lighting shall be reviewed to ensure safe movement of persons and vehicles and reflection on public property for security purposes and to minimize glare and reflection on adjacent properties and consistent with a City master plan, where applicable.
Satisfied
- h. Landscape and paving materials shall be reviewed to ensure an adequate relationship with and enhancement of the overall site plan design.
Satisfied

- i. Buffering materials shall be reviewed to ensure that headlights of vehicles, noise, and light from Structures are adequately shielded from public view, adjacent properties and pedestrian areas.
Satisfied
- j. Any proposed new structure shall have an orientation and massing which is sensitive to and compatible with the building site and surrounding area and which creates or maintains important view corridor(s).
Satisfied
- k. All buildings shall have, to the greatest extent possible, space in that part of the ground floor fronting a sidewalk, street or streets which is to be occupied for residential or commercial uses; likewise, the upper floors of the pedestal portion of the proposed building fronting a sidewalk street, or streets shall have residential or commercial spaces, or shall have the appearance of being a residential or commercial space or shall have an architectural treatment which shall buffer the appearance of a parking structure from the surrounding area and is integrated with the overall appearance of the project.
Satisfied
- l. All buildings shall have an appropriate and fully integrated rooftop architectural treatment which substantially screens all mechanical equipment, stairs and elevator towers.
Satisfied
- m. Any addition on a building site shall be designed, sited and massed in a manner which is sensitive to and compatible with the existing improvement(s).
Satisfied
- n. All portions of a project fronting a street or sidewalk shall incorporate an amount of transparency at the first level necessary to achieve pedestrian compatibility.
Not Applicable
- o. The location, design, screening and buffering of all required service bays, delivery bays, trash and refuse receptacles, as well as trash rooms shall be arranged so as to have a minimal impact on adjacent properties.
Not Applicable

ANALYSIS

The subject oceanfront site, located within the Harding Townsite/South Altos Del Mar Local Historic District, consists of portions of 73rd, 74th and 75th Streets, the entire Ocean Terrace right-of-way and city-owned parkland located to the east of Ocean Terrace. The proposed project transforms the existing streets and surface parking spaces within this 2-block area into an oceanfront park.

This well-designed waterfront amenity features an organized system of footpaths that link Bandshell Park to Altos del Mar Park, creating a continuous oceanfront park from 72nd Street to 77th Street. The south end of the park successfully integrates vehicular access for the St. Tropez

Condominium. An elevated public gathering lawn is featured within the center of the park and a raised dining deck with shade structure is proposed to be introduced at the north end.

The plan, which features abundant native landscaping, has been designed to appropriately transition from the casual dune habitat along the ocean to the more formal urban city grid. Staff is highly supportive of the overall proposal and believes this new oceanfront park will greatly improve the quality of life for the immediate neighbors and surrounding North Beach community.

Notwithstanding the above, staff has one concern relative to the proposed outdoor café design. Sheets LH.102 and LH.407 of the plans submitted by the applicant indicate the introduction of an outdoor bar structure including bar counter, shelving and storage. As noted in the Background section of this report, on July 31, 2019, the City entered into a Development Agreement with the developer. Section 26.4 of this agreement allows the developer to construct and operate a café within the park should the design of such café be approved by the Historic Preservation Board, provided the café is generally consistent with the sidewalk café permit requirements as set forth in Chapter 82 of the City Code. Since outdoor bar counters are not consistent with allowable sidewalk café furnishings, it has been determined that City Commission authorization is required for any type of bar structure and related apparatus, prior to the issuance of a Certificate of Appropriateness for this element of the café design.

Since the inclusion of an outdoor bar has not been authorized, staff is unable to provide a recommendation for the outdoor bar counter at this time. Additionally, since this apparatus was included in the submitted plans, To address this, staff has included a condition in the attached draft order requiring a separate application for Certificate of Appropriateness for an outdoor bar in the future, should the applicant obtain the required City authorization.

Finally, staff would note that in addition to the Planning Department, this project has been reviewed by other applicable City departments including Capital Improvement Projects, Fire, Transportation, Environment & Sustainability and Public Works. The respective comments of each of these departments have been addressed in the recommendations contained within the attached draft order.

VARIANCE ANALYSIS

The applicant is requesting the following variances:

1. A variance from the maximum width of 6'-0" for walkways located within the Dune Preservation Overlay District in order to construct a walkway with a maximum width of 23'-9".
2. A variance to construct a concrete walkway within the Dune Preservation Overlay District where only wood materials are permitted.

- Variances requested from:

Sec. 142-774. - Uses and structures permitted.

Uses and structures permitted under this division shall be designed to accommodate and channel pedestrian movement in such a manner as to protect and enhance vegetation and the beach. No land or structure shall be used, in whole or in part, except for one or more of the following permitted uses:

(2) Decks and patios constructed of wood materials with or without built-in tables, chairs, lighting, and benches. All structures shall be located a minimum of ten feet west of the erosion control line.

(6) Walkways and ramps constructed of wood materials and which are not more than six feet in width.

The variances requested are related to the proposed redesigned and relocated Beachwalk to be constructed within the Dune Preservation Overlay District. It is important to note that the existing Beachwalk, surface parking and a portion of the street are all currently located within the Dune Preservation Overlay District and are non-conforming to the overlay regulations. The closure of Ocean Terrace to vehicular access and the removal of the surface parking will allow for substantially more greenspace to be introduced in a manner more compatible with the Dune Preservation Overlay District. Further, the proposed location for the Beachwalk west of the Erosion Control Line, minimizes impacts to the ecologically sensitive dune system. For these reasons, staff finds that there are practical difficulties related to the location of the proposed Beachwalk that justify the variances requested. As such, staff is supportive of variances #1 and #2. Staff also recommends that the proposed material and design of the Beachwalk be consistent with the materials of the existing Beachwalk.

3. A variance to eliminate the required setback of 10'-0" from the Erosion Control Line in order to construct a walkway with up to 23'-9' in width and outdoor shower up to zero setback from the Erosion Control Line on the Dune Preservation Overlay District.
4. A variance to eliminate the required setback of 15'-0" from the north side project boundary line in order to construct a walkway at zero setback within the Dune Preservation Overlay District.
5. A variance to eliminate the required setback of 15'-0" from the south side project boundary line in order to construct a walkway at zero setback within the Dune Preservation Overlay District.
6. A variance to reduce by up to 22.39% (13,164.2 sf) the minimum 80% (47,039.2 sf) open space required in order to construct improvements and provide up to 57.61% (33,875 sf) of open space within the project boundaries in the Dune Preservation Overlay District.

- Variances requested from:

Sec. 142-775. - Development regulations

(a) Minimum open space requirements. At least 80 percent of the site shall remain open to the sky, landscaped or maintained as sand beach. All areas covered by the uses permitted above, other than portable beach furniture, shall be considered in the lot coverage calculation.

(d) Minimum yards. Minimum yards in the dune preservation district shall be as follows:

(2) Fifteen feet adjacent to any side property line, municipal park, street end, or right-of-way.

(3) Ten feet from the erosion control line when any structure has a finished floor elevation of three feet or less than the elevation of the top of the dune. For every additional one foot increase in the finished floor elevation of the structure an additional one foot of setback is required, to a maximum of 15 feet.

Variances #3 through #6 are relative to the setback requirements within the Dune Preservation Overlay District for the Beachwalk, and staff is supportive of these requested setback variances for the same reasons stated for variances #1 and #2, as well as the practical difficulties associated with the goal of maintaining a continuous oceanfront pedestrian path from South Pointe to the northern City limits.

7. A variance to eliminate the required setback of 15'-0" from the north side project boundary line in order to construct improvements at zero setback within the Oceanfront Overlay District.
8. A variance to eliminate the required setback of 15'-0" from the south side project boundary line in order to construct improvements at zero setback within the Oceanfront Overlay District.
9. A variance to eliminate the required setback of 10'-0" from the Bulkhead Line in order to construct a driveway and deck at zero from the Bulkhead Line within the Oceanfront Overlay District.

- Variances requested from:

Sec. 142-802. - Additional regulations for oceanfront lots.

These regulations apply to buildings and structures located west of the bulkhead line. Oceanfront lots shall have a minimum required rear yard setback of 50 feet at grade and subterranean levels measured from the bulkhead line in which there shall be no construction of any dwelling, hotel, apartment building, commercial building, seawall, parking areas, revetment or other structure incidental to or related to such structure except in accordance with the following provisions:

(3) There shall be a minimum required 15-foot setback from a side lot line and a minimum required ten-foot setback from the bulkhead line.

These variances pertain to the driveway and decks proposed within the Oceanfront Overlay District. Due to the unique location of the new park and the need to facilitate the efficient operation of the adjacent hotel and residential buildings, while providing pedestrian access and outdoor amenities for residents and visitors, the variances are requested to revitalize and improve the character and appearance of the surrounding neighborhood and increase the recreational open space. For these reasons, staff recommends approval of variances #7 through #9.

RECOMMENDATION

In view of the foregoing analysis, staff recommends the application be **approved**, including the variances requested subject to the conditions enumerated in the attached draft Order, which address the inconsistencies with the aforementioned Certificate of Appropriateness criteria and Hardship and Practical Difficulties criteria, as applicable.

HISTORIC PRESERVATION BOARD
City of Miami Beach, Florida

MEETING DATE: September 13, 2021

PROPERTY/FOLIO: Park land / 02-3202-003-1250
Vacated rights-of-way / 02-3202-003-0135

FILE NO: HPB19-0361

IN RE: An application has been filed by OTH Streetscape, LLC c/o Ocean Terrace Holdings, LLC, requesting a Certificate of Appropriateness for the design of a new park and streetscape improvements, including variances from the requirements of the Oceanfront and Dune Preservation Overlay districts.

LEGAL: Parcel 1
PORT OF R/W OF 74 ST & ADJ TO LOT 14 BLK 1 OF PB 34-4 DESC AS BEG SE COR OF LOT 14 TH S 86 DEG 146FT S 02 DEG E 30FT N 86 DEG E 146FT N 02 DEG W 30FT TO POB CLOSED PER R-2019-30927 PORT OF R/W 74ST & 75ST & OCEAN TERR ADJ TO LOTS 1 THRU 8 BLK 1 OF PB 34-4 DESC AS BEG SE COR OF LOT 2 TH N 02 DEG W 100FT S 86 DEG W 150FT N 02 DEG W 40FT N 85 DEG E 210FT S 02 DEG E 140FT S 86 DEG W 60FT TO POB & BEG SE COR OF LOT 4 TH N 02 DEG W 100FT N 86 DEG E 60FT S 02 DEG E 100FT S 86 DEG W 60FT TO POB & BEG SE COR OF LOT 5 TH N 02 DEG W 50FT N 86 DEG E 60FT S 02 DEG E 50FT S 86 DEG W 60FT TO POB & BEG SW COR OF LOT 7 TH N 86 DEG E 150FT N 02 DEG W 50FT N 86 DEG E 60FT S 02 DEG E 80FT S 86 DEG W 210FT N 02 DEG W 30FT TO POB & BEG NE COR LOT 8 S 86 DEG W 146FT N 02 DEG W 40FT N 86 DEG E 146FT S 02 DEG E 40FT TO POB.

Parcel 2
Park lying east of Ocean Terrace between 73 Street and 75 Street, of the Harding Townsite, According to the Plat thereof, as Recorded in Plat Book 34, Page 4, of the Public Records of Miami-Dade County, Florida and the portion lying east & adjacent west of the erosion control line, as Recorded in Plat Book 105, Page 62, of the Public Records of Miami-Dade County, Florida.

ORDER

The City of Miami Beach Historic Preservation Board makes the following FINDINGS OF FACT, based upon the evidence, information, testimony and materials presented at the public hearing and which are part of the record for this matter:

I. Certificate of Appropriateness

- A. The subject site is located within the Harding Townsite/South Altos del Mar Local Historic District.

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- B. Based on the plans and documents submitted with the application, testimony and information provided by the applicant, and the reasons set forth in the Planning Department Staff Report, the project as submitted:
1. Is consistent with Sea Level Rise and Resiliency Review Criteria in Section 133-50(a) of the Miami Beach Code.
 2. Is consistent with the Certificate of Appropriateness Criteria in Section 118-564(a)(1) of the Miami Beach Code.
 3. Is consistent with Certificate of Appropriateness Criteria in Section 118-564(a)(2) of the Miami Beach Code.
 4. Is not consistent with Certificate of Appropriateness Criteria 'b' in Section 118-564(a)(3) of the Miami Beach Code.
- C. The project would be consistent with the criteria and requirements of section 118-564 and 133-50(a) if the following conditions are met:
1. Revised elevation, site plan and floor plan drawings shall be submitted and, at a minimum, such drawings shall incorporate the following:
 - a. Final design and details of the proposed paving materials, including samples, shall be submitted, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.
 - b. Final design and details of the proposed raised dining deck and shade structure shall be submitted, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.
 - c. The proposed bar and all related apparatus, including, but not limited to, ancillary counters, shelves and back bar, as well as any plumbing, electrical or mechanical connections, shall not be permitted as part of this approval. The future introduction and location of any bars, counters, cabinets or other similar furniture and/or fixtures associated with an outdoor bar shall require the approval of the City Commission prior to the issuance of a Certificate of Appropriateness by the Historic Preservation Board. A separate application for a Certificate of Appropriateness may be submitted in the future for a bar and associated furnishings and fixtures, provided the applicant has received the required City authorization.
 2. A revised landscape plan, prepared by a Professional Landscape Architect, registered in the State of Florida, and corresponding site plan, shall be submitted to and approved by staff. The species type, quantity, dimensions, spacing, location and overall height of all plant material shall be clearly delineated and subject to the review and approval of staff. At a minimum, such plan shall incorporate the following:

- a. Proposed work will require a tree removal permit subject to the approval of the Urban Forestry Division. No tree work permit shall be issued for removal of a specimen tree (Trees with a DBH of 12" or greater) without a written evaluation by an ISA certified arborist and or ASCA registered consulting arborist, in good standing, stating reason(s) that the removal is necessary.
 - b. A fully automatic irrigation system with 100% coverage and an automatic rain sensor in order to render the system inoperative in the event of rain.
 - c. The project design shall minimize the potential for a project causing a heat island effect on site.
 - d. Cool pavement materials or porous pavement materials shall be utilized.
 - e. The use of Silva Cells or approved equal should be specified for canopy shade trees planted in areas where rooting space may be limited, inclusive of street trees, in a manner to be reviewed and approved by staff, consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.
3. A Fire Department Access Plan for the project shall be reviewed and approved by the Fire Marshal prior to the issuance of a building permit.

In accordance with Section 118-537, the applicant, the owner(s) of the subject property, the City Manager, Miami Design Preservation League, Dade Heritage Trust, or an affected person may appeal the Board's decision on a Certificate of Appropriateness to a special master appointed by the City Commission.

II. Variance(s)

- A. The applicant filed an application with the Planning Department for the following variance(s):
1. A variance from the maximum width of 6'-0" for walkways located within the Dune Preservation Overlay District in order to construct a walkway with up to 23'-9" in width.
 2. A variance to construct a walkway with concrete where only wood materials are allowed within the Dune Preservation Overlay District.
 3. A variance to eliminate the required setback of 10'-0" from the Erosion Control Line in order to construct a walkway with up to 23'-9" in width and outdoor shower up to zero setback from the Erosion Control Line on the Dune Preservation Overlay District.
 4. A variance to eliminate the required setback of 15'-0" from the north side project boundary line in order to construct a walkway at zero setback within the Dune Preservation Overlay District.

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5. A variance to eliminate the required setback of 15'-0" from the south side project boundary line in order to construct a walkway at zero setback within the Dune Preservation Overlay District.
 6. A variance to reduce by up to 22.39% (13,164.2 sf) the minimum 80% (47,039.2 sf) open space required in order to construct improvements and provide up to 57.61% (33,875 sf) of open space within the project boundaries in the Dune Preservation Overlay District.
 7. A variance to eliminate the required setback of 15'-0" from the north side project boundary line in order to construct improvements at zero setback within the Oceanfront Overlay District.
 8. A variance to eliminate the required setback of 15'-0" from the south side project boundary line in order to construct improvements at zero setback within the Oceanfront Overlay District.
 9. A variance to eliminate the required setback of 10'-0" from the Bulkhead Line in order to construct a driveway and deck at zero from the Bulkhead Line within the Oceanfront Overlay District.
- B. The applicant has submitted plans and documents with the application that satisfy Article 1, Section 2 of the Related Special Acts, allowing the granting of a variance if the Board finds that practical difficulties exist with respect to implementing the proposed project at the subject property.

The applicant has submitted plans and documents with the application that indicate the following, as they relate to the requirements of Section 118-353(d), Miami Beach City Code:

That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district;

That the special conditions and circumstances do not result from the action of the applicant;

That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, buildings, or structures in the same zoning district;

That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Ordinance and would work unnecessary and undue hardship on the applicant;

That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure;

That the granting of the variance will be in harmony with the general intent and purpose of this Ordinance and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare; and

That the granting of this request is consistent with the comprehensive plan and does not reduce the levels of service as set forth in the plan.

The granting of the variance will result in a structure and site that complies with the sea level rise and resiliency review criteria in chapter 133, article II, as applicable.

- C. The Board hereby **approves** the requested variances, as noted and imposes the following conditions based on its authority in Section 118-354 of the Miami Beach City Code:
1. Substantial modifications to the plans submitted and approved as part of the application, as determined by the Planning Director or designee, may require the applicant to return to the Board for approval of the modified plans, even if the modifications do not affect variances approved by the Board.
 2. The final design including materials for the Beachwalk shall be subject to the review and approval of the Environment and Sustainability Department and other applicable government agencies.

The decision of the Board regarding variances shall be final and there shall be no further review thereof except by resort to a court of competent jurisdiction by petition for writ of certiorari.

III. General Terms and Conditions applying to both 'I. Certificate of Appropriateness' and 'II. Variances' noted above.

- A. A copy of all pages of the recorded Final Order shall be scanned into the plans submitted for building permit and shall be located immediately after the front cover page of the permit plans.
- B. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- C. Satisfaction of all conditions is required for the Planning Department to give its approval on a Certificate of Occupancy; a Temporary Certificate of Occupancy or Partial Certificate of Occupancy may also be conditionally granted Planning Departmental approval.
- D. The Final Order is not severable, and if any provision or condition hereof is held void or unconstitutional in a final decision by a court of competent jurisdiction, the order shall be returned to the Board for reconsideration as to whether the order meets the criteria for approval absent the stricken provision or condition, and/or it is appropriate to modify the remaining conditions or impose new conditions.
- E. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.

- F. Nothing in this order authorizes a violation of the City Code or other applicable law, nor allows a relaxation of any requirement or standard set forth in the City Code.
- G. Upon the issuance of a final Certificate of Occupancy or Certificate of Completion, as applicable, the project approved herein shall be maintained in accordance with the plans approved by the board and shall be subject to all conditions of approval herein, unless otherwise modified by the Board. Failure to maintain shall result in the issuance of a Code Compliance citation, and continued failure to comply may result in revocation of the Certificate of Occupancy, Completion and Business Tax Receipt.

IT IS HEREBY ORDERED, based upon the foregoing findings of fact, the evidence, information, testimony and materials presented at the public hearing, which are part of the record for this matter, and the staff report and analysis, which are adopted herein, including the staff recommendations, which were amended and adopted by the Board, that the application is GRANTED for the above-referenced project subject to those certain conditions specified in Paragraph I, II, III of the Findings of Fact, to which the applicant has agreed.

PROVIDED, the applicant shall build substantially in accordance with the plans entitled "**Ocean Terrace Streetscape Park**", as prepared by **Raymond Jungles, Inc.**, dated **July 6, 2021**, as approved by the Historic Preservation Board, as determined by staff.

When requesting a building permit, the plans submitted to the Building Department for permit shall be consistent with the plans approved by the Board, modified in accordance with the conditions set forth in this Order. No building permit may be issued unless and until all conditions of approval that must be satisfied prior to permit issuance, as set forth in this Order, have been met.

The issuance of the approval does not relieve the applicant from obtaining all other required Municipal, County and/or State reviews and permits, including final zoning approval. If adequate handicapped access is not provided on the Board-approved plans, this approval does not mean that such handicapped access is not required. When requesting a building permit, the plans submitted to the Building Department for permit shall be consistent with the plans approved by the Board, modified in accordance with the conditions set forth in this Order.

If the Full Building Permit for the project is not issued within eighteen (18) months of the meeting date at which the original approval was granted, the application will expire and become null and void, unless the applicant makes an application to the Board for an extension of time, in accordance with the requirements and procedures of Chapter 118 of the City Code; the granting of any such extension of time shall be at the discretion of the Board. If the Full Building Permit for the project should expire for any reason (including but not limited to construction not commencing and continuing, with required inspections, in accordance with the applicable Building Code), the application will expire and become null and void.

In accordance with Chapter 118 of the City Code, the violation of any conditions and safeguards that are a part of this Order shall be deemed a violation of the land development regulations of the City Code. Failure to comply with this Order shall subject the application to Chapter 118 of the City Code, for revocation or modification of the application.

Dated this _____ day of _____, 20__.

HISTORIC PRESERVATION BOARD
THE CITY OF MIAMI BEACH, FLORIDA

BY: _____
DEBORAH TACKETT
HISTORIC PRESERVATION & ARCHITECTURE OFFICER
FOR THE CHAIR

STATE OF FLORIDA)
)SS
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this _____ day of _____ 20__ by Deborah Tackett, Historic Preservation & Architecture Officer, Planning Department, City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the corporation. She is personally known to me.

NOTARY PUBLIC
Miami-Dade County, Florida
My commission expires: _____

Approved As To Form:
City Attorney's Office: _____ ())

Filed with the Clerk of the Historic Preservation Board on _____ ())